

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

RAILWORKS TRACK SYSTEMS LLC,

Plaintiff,

v.

METROPOLITAN ATLANTA RAPID  
TRANSIT AUTHORITY,

Defendant.

Civil Action No.:

**DEMAND FOR CIVIL JURY TRIAL**

**COMPLAINT**

Plaintiff RailWorks Track Systems LLC (“RailWorks”), by and through undersigned counsel, hereby submits this Complaint against Metropolitan Atlanta Rapid Transit Authority (“MARTA” or “Defendant”), and alleges in support thereof as follows:

**INTRODUCTION**

1. This is a breach of contract action. Plaintiff RailWorks is a leading provider of railroad construction and maintenance services. Defendant MARTA provides public transportation services in and around Atlanta, Georgia. In November 2018, RailWorks and MARTA (collectively “Parties”) entered into the Track Renovation – Phase IV Running Rail, Switch Steel, Tie and Fastener Replacement Contract (“Agreement”). Pursuant to the Agreement, RailWorks agreed to perform certain maintenance services on MARTA’s rail network. Unfortunately, MARTA has repeatedly breached the Agreement by refusing to

compensate RailWorks for costs incurred as a result of MARTA's numerous delays and interruptions of RailWork's performance of its obligations.

2. RailWorks brings this action against MARTA for damages sustained as a result of MARTA's breaches of the Agreement.

### **PARTIES**

3. Plaintiff RailWorks is a Nevada limited liability corporation with its principal place of business located at 5 Penn Plaza, 15th Floor, New York, New York, 10001.

4. The sole member of RailWorks is Railworks Partners, LP, a Delaware limited partnership.

5. The sole member of RailWorks Partners, LP is RailWorks Holdings, LP, a Delaware limited partnership.

6. The sole member of RailWorks Holdings, LP is RailWorks Intermediate, LP, a Delaware Limited partnership.

7. The sole member of RailWorks Intermediate, LP is RailWorks TopCo LP.

8. The sole member of RailWorks TopCo LP is BCP Fund UGP, LLC.

9. All of the members of BCP Fund UGP, LLC are citizens of the state of Louisiana.

10. Defendant MARTA is a non-profit public corporate body organized as a joint public instrumentality of the City of Atlanta and Georgia counties including, Fulton, Dekalb, Gwinnett, and Clayton. MARTA has its principal place of business at 2424 Piedmont Road NE, Atlanta, Georgia, 30324.

### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1332(a) as the action is between citizens of different states with complete diversity of citizenship, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

### **FACTUAL BACKGROUND**

13. On November 9, 2018, RailWorks Track Systems, Inc.<sup>1</sup> and MARTA entered into the Agreement whereby RailWorks undertook to perform certain construction and maintenance activities on MARTA's network of train tracks and related infrastructure, including the replacement of multiple double cross overs; replacement of running rail, switch steel, ties and fasteners; and other work, with a total value of approximately \$133 million.

14. To avoid disruption of MARTA's services, RailWorks was only permitted to perform its obligations under the Agreement when given express permission by MARTA.

---

<sup>1</sup> RailWorks Track Systems, Inc. ("RailWorks Inc.") converted its entity type from a Nevada corporation to a Nevada limited liability corporation on December 29, 2021, pursuant to Nevada Revised Statutes 92A.250 (3). The effect of this conversion was the continuation of RailWorks Inc.'s existence as an entity, though operating as RailWorks Track Systems LLC. *See* N.R.S. 92A.250 (3). As a continuation of RailWorks Inc., RailWorks possesses all of the property, rights, liabilities, and obligations of RailWorks Inc. and is therefore the proper party in interest to maintain this litigation.

15. The Parties' scheduling for the project contemplated that RailWorks would have adequate time during which MARTA would suspend service on segments of its rail lines to allow RailWorks to perform its obligations. MARTA, however, not only consistently failed to provide RailWorks with the needed and agreed upon access to the track, but also ordered RailWorks to resequence its work and focus on different areas of track. The work at issue is often designed and engineered months in advance with some of the custom-made materials requiring months to procure. Therefore, MARTA's actions in this regard have substantially delayed the project.

16. MARTA also submitted numerous scheduling changes and updates that prolonged the project.

17. By way of example, just months into the performance of the Agreement, in early June, 2019, MARTA required drastic changes to the sequence of the work. RailWorks complied with this official directive as it was contractually obligated to do. MARTA, however, has steadfastly refused to give RailWorks any relief in terms of increased cost, increased track access, or increased schedule duration to account for the changes MARTA required.

18. In all such situations, RailWorks has communicated the issues to MARTA and requested that MARTA provide RailWorks with appropriate relief.

19. Despite MARTA's obligations to RailWorks, it has refused to provide any of the required relief, or issue appropriate change orders to properly compensate for the changes

MARTA is requiring, despite the Parties prior agreements regarding scope and sequence of work.

20. MARTA's actions have delayed the project by no less than 421 calendar days.

21. The lengthy delays caused by MARTA's numerous scheduling changes, interruptions, lack of track access, and other breaches have caused RailWorks to incur significant damages, well in excess of \$75,000.

22. Pursuant to the Parties' Agreement, MARTA is liable to RailWorks for these costs.

23. Despite its obligation to do so, MARTA refused to reimburse RailWorks and thereby breached the Agreement.

#### **COUNT I – BREACH OF CONTRACT**

24. RailWorks incorporates the forgoing allegations as if set forth herein.

25. MARTA and RailWorks were parties to the Agreement – a binding contract that imposed obligations on both Parties.

26. RailWorks performed its obligations under the Agreement by making all necessary preparations for performing certain work on MARTA's rail system.

27. MARTA breached the Agreement by refusing to compensate RailWorks for costs and expenses it incurred as a result of MARTA's numerous scheduling changes, delays, and interruptions, that needlessly prolonged the project by well-over a year.

28. MARTA's breaches of the Agreement caused well in excess of \$75,000 in damages to RailWorks.

29. RailWorks has therefore suffered injuries, damages, and losses in an amount to be determined at trial.

**JURY DEMAND**

30. RailWorks respectfully demands a trial by jury on all issues raised in this Complaint and will tender the appropriate fee.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff RailWorks respectfully requests the following relief:

- a. That the Court enter judgment in favor of Plaintiff and against Defendant on the cause of action stated above and any other cause of action which may be added to this Complaint by amendment or otherwise;
- b. That the Court award damages in favor of Plaintiff as compensation for Defendant's breaches of the Agreement, including pre- and post-judgment interest, costs, and attorneys' fees;
- c. That the Court award such other relief as the Court may deem just and proper.

Dated: July 19, 2022.

Respectfully submitted,

TROUTMAN PEPPER HAMILTON SANDERS LLP

/s/ Todd M. Heffner

Todd M. Heffner (Ga. Bar No. 595870)

Wheaton P. Webb (Ga. Bar No. 902682)

600 Peachtree Street NE, Ste. #3000

Atlanta, GA 30308

T: 404.885.3666

F: 404.885.3900

Todd.Heffner@troutman.com

Wheaton.Webb@troutman.com

*Counsel for Plaintiff RailWorks Track System, LLC*